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Eric Fry*

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:

TOPS HOLDING CORPORATION, *et al.*,

Debtors.

ALAN D. HALPERIN, AS THE LITIGATION
TRUSTEE FOR THE TOPS HOLDING
LITIGATION TRUST,

Plaintiff,

v.

MORGAN STANLEY INVESTMENT
MANAGEMENT, INC., *et al.*,

Defendants.

Chapter 11

Case No. 18-22279 (SHL)
(Jointly Administered)

Adv. Proc. No. 20-08950 (DSJ)

**NOTICE OF MORGAN
STANLEY DEFENDANTS'
MOTION FOR SUMMARY
JUDGMENT**

PLEASE TAKE NOTICE THAT, upon the accompanying Memorandum of Law, the accompanying Statement of Undisputed Facts, the accompanying Declaration of Pamela A. Miller, and all pleadings and proceedings heretofore had before this Court, the Morgan Stanley Defendants¹ in the above-captioned adversary proceeding, by their undersigned counsel, will move before the Honorable David S. Jones of the United States Bankruptcy Court for the Southern District of New York, One Bowling Green, New York, New York 10004 on **April 3, 2025 at 10:00 a.m. (ET)**, or such other time as determined by the Court, pursuant to Rule 56 of the Federal Rules of Civil Procedure (the “Federal Rules”), made applicable to the above-captioned adversary proceeding pursuant to Rule 7056 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), and Rule 7056-1 of the Local Bankruptcy Rules for the Southern District of New York, for the entry of an Order (i) granting summary judgment in favor of the Morgan Stanley Defendants; and (ii) granting such other and further relief as the Court deems just and proper (hereinafter, the “Motion”).

PLEASE TAKE FURTHER NOTICE that objections, if any, to the Motion must be in writing, must conform to the Bankruptcy Rules and the Local Rules of the Bankruptcy Court for the Southern District of New York, must set forth the name of the objecting party, the basis for the objection and the specific grounds therefore, and must be filed and served, by no later than February 7, 2025, electronically in accordance with General Order M-242 (General Order M-242 and the User’s Manual for the Electronic Case Filing System may be found at www.nysb.uscourts.gov, the official website for the Bankruptcy Court) by registered users of the Bankruptcy Court’s case filing system, and by all other parties in interest on a 3.5 inch disk, preferably in Portable Document Format (PDF), WordPerfect, or any other Windows-based word

¹ Morgan Stanley Investment Management, Inc.; Eric Kanter, Gary Matthews, and Eric Fry; and Morgan Stanley Capital Partners V U.S. Holdco LLC.

processing format (with a copy delivered directly to the Chambers of the Honorable David S. Jones at jones.chambers@nysb.uscourts.gov), in accordance with General Order M-242, and any objection must further be served upon (i) McKool Smith, PC, 1301 6th Avenue, 32nd Floor, New York NY 10019, Attn: Kyle A. Lonergan and James H. Smith, attorneys for the Litigation Trustee; (ii) O'Melveny & Myers LLP, 1301 Avenue of the Americas, Suite 1700, New York, NY 10019, Attn: Pamela A. Miller, Peter Friedman, and Meaghan VerGow, attorneys for the Morgan Stanley Defendants; (iii) Perkins Coie LLP, 1155 Avenue of the Americas, New York, NY 10036, Attn: David B. Massey, Emily B. Cooper, and Benjamin Estes, attorneys for Defendants Gregory Josefowicz and Stacey Rauch; (iv) Greenberg Traurig, LLP, 500 Campus Drive, Suite 400, Florham Park, NJ 07932, Attn: Louis Smith and Alan J. Brody, attorneys for HSBC Private Equity Partners U.S.A., LP and HSBC Private Equity Partners II USA LP; and (v) those parties who have filed notices of appearance in these cases.

Dated: December 20, 2024

Respectfully submitted,

/s/ Pamela A. Miller

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